

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LONNIE LEE CARTER,

Defendant-Appellant.

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UNPUBLISHED

November 19, 2013

No. 311880

Bay Circuit Court

LC No. 11-010603-FH

Before: WHITBECK, P.J., and WILDER and RONAYNE KRAUSE, JJ.

PER CURIAM.

Defendant, Lonnie Lee Carter, appeals as of right his conviction, following a jury trial, of possession of less than 25 grams of cocaine.<sup>1</sup> Carter does not appeal his contemporaneous conviction of operating a vehicle on a suspended license.<sup>2</sup> Because the prosecutor presented circumstantial evidence that would allow a rational juror to find that Carter knowingly possessed the cocaine beyond a reasonable doubt, we affirm.

**I. FACTS**

On August 7, 2011, Michigan State Police Trooper Raymond Rollet stopped Carter's minivan after noticing that it did not have a license plate. Trooper Rollet testified that when he asked Carter for his license and registration, Carter admitted that his license was suspended. Trooper Rollet arrested Carter and put him in his patrol car. Trooper Rollet discovered that Carter had a small bag of marijuana on him, but he returned it to Carter after Carter produced his medical marijuana card. Trooper Rollet testified that when he asked Carter and his passenger, Darlene Stroud, about where they were coming from, they gave different stories.

Both Carter and Stroud gave Trooper Rollet permission to search the minivan, and he found crack cocaine paraphernalia on the floor between the minivan's front seats. He testified that male suspects commonly hide drugs on female suspects because they believe that male police officers are less likely to search them. Trooper Rollet testified that he asked Stroud where

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<sup>1</sup> MCL 333.7403(2)(a)(v).

<sup>2</sup> MCL 257.904(3)(a).

the cocaine was located, and she indicated that it was in her pants. Stroud gave him a bag that contained a little more than 5 grams of crack cocaine. According to Trooper Rollet, a single use of crack cocaine is typically one-eighth to one-tenth of a gram, and Stroud's bag contained about 20 or 30 uses, worth about \$300. At trial, Stroud testified that she bought the crack cocaine for about \$80 while in Flint, that Carter was not aware that she purchased it, and that he did not know that she had the cocaine in the minivan.

Trooper Rollet testified that he returned to his patrol car and asked Carter whether he was a crack cocaine user or seller, to which Carter replied he was just a user. Trooper Rollet testified that he asked Carter who the crack cocaine belonged to, and Carter did not respond. Finally, Trooper Rollet testified that he asked Carter where he and Stroud got the cocaine from, and Carter responded, "Flint." Trooper Rollet testified that he was clearly asking about the cocaine, and that Carter did not qualify his answer.

Carter testified that he was not aware that Stroud had purchased the crack cocaine or was carrying it. Carter testified that when Trooper Rollet asked him whether he was a user or a seller, he thought that Trooper Rollet was asking him about the marijuana. Carter also explained that he told Trooper Rollet that it was safe to assume that Stroud purchased the crack cocaine in Flint, because they came from Flint.

The jury found Carter guilty of possessing less than 25 grams of cocaine and operating a vehicle on a suspended license.

## II. SUFFICIENCY OF THE EVIDENCE

### A. STANDARD OF REVIEW

A claim that the evidence was insufficient to convict a defendant invokes that defendant's constitutional right to due process of law.<sup>3</sup> Thus, this Court reviews de novo a defendant's challenge to the sufficiency of the evidence supporting his or her conviction.<sup>4</sup> We review the evidence in a light most favorable to the prosecutor to determine whether a rational trier of fact could find that the prosecutor proved the essential elements of the crime beyond a reasonable doubt.<sup>5</sup> When reviewing the sufficiency of the evidence, we will not interfere with the trier of fact's role to determine the weight of the evidence or the credibility of the witnesses.<sup>6</sup>

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<sup>3</sup> *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992); see *In re Winship*, 397 US 358, 364; 90 S Ct 1068; 25 L Ed 2d 368 (1970).

<sup>4</sup> *People v Meissner*, 294 Mich App 438, 452; 812 NW2d 37 (2011).

<sup>5</sup> *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012); *Meissner*, 294 Mich App at 452.

<sup>6</sup> *Wolfe*, 440 Mich at 514-515; *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008).

## B. LEGAL STANDARDS

“A person shall not knowingly or intentionally possess a controlled substance,” and possession of less than 25 grams of a controlled substance is a felony.<sup>7</sup> A person can possess a controlled substance in two ways: actual possession or constructive possession.<sup>8</sup> A defendant constructively possesses a controlled substance when “the totality of the circumstances indicates a sufficient nexus between the defendant and the contraband.”<sup>9</sup> This includes when he or she (1) knows that the substance is present, and (2) has the right to control it.<sup>10</sup> However, a person’s mere presence when a substance is found is insufficient to prove constructive possession.<sup>11</sup>

## C. APPLYING THE STANDARDS

Carter contends that the prosecutor did not prove that he possessed the cocaine because he was merely present and did not know that Stroud was carrying it. Because Trooper Rollet’s testimony and the circumstantial evidence would allow a reasonable juror to find beyond a reasonable doubt that Carter knew that Stroud was carrying the cocaine, we disagree.

Here, Trooper Rollet testified that he asked Carter whether he was a cocaine user or seller, and Carter responded that he was a user. Trooper Rollet further testified that he asked Carter where he purchased the cocaine, and Carter responded, “Flint.” Trooper Rollet testified that he was clearly asking about the cocaine, and that Carter did not qualify his answers. Though Carter offered explanations for his answers that were not incriminating, the jury could have concluded that Trooper Rollet’s account was more credible. We will not interfere with that determination.<sup>12</sup>

Further, circumstantial evidence and reasonable inferences arising from that evidence can constitute proof beyond a reasonable doubt of the elements of a crime, including the element of possession.<sup>13</sup> Here, Stroud testified that she and Carter were boyfriend and girlfriend. Stroud was carrying 20 to 30 uses of cocaine. Cocaine paraphernalia was on the floor between the front seats of the minivan. Trooper Rollet testified that, in his experience, male suspects often hide drugs on female suspects. We conclude that the circumstantial evidence also would have allowed a reasonable juror to find that Carter knew about the cocaine that Stroud was carrying.

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<sup>7</sup> MCL 333.7403(1) and (2)(v).

<sup>8</sup> *People v Konrad*, 449 Mich 263, 271; 536 NW2d 517 (1995); *Wolfe*, 440 Mich at 520.

<sup>9</sup> *Wolfe*, 440 Mich at 521.

<sup>10</sup> *Id.* at 520.

<sup>11</sup> *Id.*

<sup>12</sup> See *Wolfe*, 440 Mich at 514-515; *Kanaan*, 278 Mich App at 619.

<sup>13</sup> *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999); *People v Nunez*, 242 Mich App 610, 615-616; 619 NW2d 550 (2000).

Carter also contends that he did not possess the cocaine because it was not in his exclusive control. We disagree.

More than one person may possess a controlled substance at one time.<sup>14</sup> A defendant need not own a controlled substance to possess it.<sup>15</sup> Here, as stated above, Carter and Stroud were in a relationship and Stroud was carrying many doses of cocaine. We conclude that a reasonable juror could find that Carter and Stroud jointly possessed the cocaine.

We affirm.

/s/ William C. Whitbeck

/s/ Kurtis T. Wilder

/s/ Amy Ronayne Krause

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<sup>14</sup> *Konrad*, 449 Mich at 271; *Wolfe*, 440 Mich at 520.

<sup>15</sup> *Wolfe*, 440 Mich at 520.